

CONGRESSIONAL RECORD SUMMARY

Tuesday, July 17, 2001

SENATE

Measures Introduced:

S. 1178. An original bill making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 2002, and for other purposes; from the Committee on Appropriations; *placed on the calendar*.

Murray

Page S 7805

S. 1186. A bill to provide a budgetary mechanism to ensure that funds will be available *to satisfy the Federal Government's responsibilities with respect to negotiated settlements of disputes related to Indian water rights claims and Indian land claims*; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

Domenici

Pages S 7805, S 7818-19

Measure Passed:

Bankruptcy Reform: By 82 yeas to 16 nays, 1 responding present (Vote No. 236), Senate passed H.R. 333, to amend title 11, United States Code, after taking action on the following amendments proposed thereto:

Pages S 7721-35, S 7737-9, S 7741-89, D 711

See Page S 7796: SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

“... (e) *Rules for Objections to Claims and to Confirmation.*--It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the **Judicial Conference of the United States** should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that--

- (1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and
- (2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required...”

See Page S 7784: SEC. 1223. BANKRUPTCY JUDGESHIPS.

(a) Short Title.--This section may be cited as the “**Bankruptcy Judgeship Act of 2001**.”

(b) Temporary Judgeships.--

(1) Appointments.--The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

- (A) One additional bankruptcy judgeship for the eastern district of California.
- (B) Four additional bankruptcy judgeships for the central district of California.
- (C) One additional bankruptcy judgeship for the district of Delaware.
- (D) Two additional bankruptcy judgeships for the southern district of Florida.
- (E) One additional bankruptcy judgeship for the southern district of Georgia.
- (F) Three additional bankruptcy judgeships for the district of Maryland.

Measure Passed (Cont'd.):

Temporary Judgeships (Cont'd.):

- (G) One additional bankruptcy judgeship for the eastern district of Michigan.*
(H) One additional bankruptcy judgeship for the southern district of Mississippi.
(I) One additional bankruptcy judgeship for the district of New Jersey.
(J) One additional bankruptcy judgeship for the eastern district of New York.
(K) One additional bankruptcy judgeship for the northern district of New York.
(L) One additional bankruptcy judgeship for the southern district of New York.
(M) One additional bankruptcy judgeship for the eastern district of North Carolina.
(N) One additional bankruptcy judgeship for the eastern district of Pennsylvania.
(O) One additional bankruptcy judgeship for the middle district of Pennsylvania.
(P) One additional bankruptcy judgeship for the district of Puerto Rico.
(Q) One additional bankruptcy judgeship for the western district of Tennessee.
(R) One additional bankruptcy judgeship for the eastern district of Virginia.
(S) One additional bankruptcy judgeship for the district of South Carolina.
(T) One additional bankruptcy judgeship for the district of Nevada, and one for the district of Delaware.
(2) Vacancies.--The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) shall not be filled if the vacancy--
(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and
(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1).
(c) Extensions.--
(1) In general.--The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, and the eastern district of Tennessee under paragraphs (1), (3), (7), and (9) of section 3(a) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring--
(A) 11 years or more after November 8, 1993, with respect to the northern district of Alabama;
(B) 13 years or more after October 28, 1993, with respect to the district of Delaware;
(C) 11 years or more after August 29, 1994, with respect to the district of Puerto Rico; and
(D) 11 years or more after November 23, 1993, with respect to the eastern district of Tennessee.
(2) Applicability of other provisions.--All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) remain applicable to temporary judgeship positions referred to in this subsection.
(d) Technical Amendments.--Section 152(a) of title 28, United States Code, is amended--(1) in paragraph (1), by striking the first sentence and inserting the following: "Each bankruptcy judge to be appointed for a judicial district, as provided in paragraph (2), shall be appointed by the United States court of appeals for the circuit in which such district is located." and
(2) in paragraph (2)--
(A) in the item relating to the middle district of Georgia, by striking '2' and inserting '3'; and
(B) in the collective item relating to the middle and southern districts of Georgia, by striking "Middle and Southern1".
(e) Effective Date.--The amendments made by this section shall take effect on the date of enactment of this Act.

Measure Passed (Cont'd.):

Adopted:

Leahy/Hatch/Grassley Amendment No. 974, in the nature of a substitute.

Pages S 7721-35, S 7737-9, S 7741-2, D 711

By 52 yeas to 46 nays, 1 responding present (Vote No. 235), Wellstone Amendment No. 977 (to Amendment No. 974), to require the General Accounting Office to conduct a study of the effects of the Act on bankruptcy filings.

Pages S 7737-9, S 7741-2, D 711

During consideration of this measure today, Senate also took the following action:

By 88 yeas to 10 nays, 1 responding present (Vote No. 234), three-fifths of those Senators duly chosen and sworn having voted in the affirmative, *Senate agreed to close further debate on Amendment No. 974* (listed above) to the bill.

Pages S 7734-5, D 711

Senate insisted on its amendment, requested a conference with the House thereon, and the Chair was authorized to appoint the following conferees on the part of the Senate: Senators Leahy, Kennedy, Biden, Kohl, Feingold, Schumer, Durbin, Hatch, Grassley, Kyl, DeWine, Sessions, and McConnell.

Pages S 7796, D 711

Committee Meetings:

Committee on Governmental Affairs: Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia concluded hearings to examine the expansion of flexible personnel systems throughout the United States government, to determine if they have been successfully employed and if they should be extended.

Committee on the Judiciary: Committee concluded hearings on the nomination of *Asa Hutchinson*, of Arkansas, to be *Administrator of Drug Enforcement*, Department of Justice, after the nominee, who was introduced by Senators Hutchinson and Lincoln, and Representative Conyers, testified and answered questions in his own behalf.

Page D 714

Committee Meetings For Wednesday, July 18, 2001:

Special Committee on Aging: @ 10:00 a.m. To resume hearings to examine long term care issues, focusing on costs and demands including state initiatives to shift Medicaid services away from institutional care and toward community based services. SD-628.

Committee on Appropriations: @ 9:30 a.m. Subcommittee on Labor, Health and Human Services, and Education, to hold hearings to examine stem cell research issues, focusing on the National Institute of Health report entitled "*Stem Cells: Scientific Progress and Future Research Directions.*" SH-216.

Committee on Commerce, Science, and Transportation: @ 9:30 a.m. To hold hearings to examine safety of cross border trucking and bus operations and the adequacy of resources for compliance and enforcement purposes, focusing on the impact on United States communities, businesses, employees, and the environment *as well as the application of U.S. laws to the operations.* SR-253.

Committee on Health, Education, Labor, and Pensions: @ 10:00 a.m. Subcommittee on Employment, Safety and Training, to hold hearings to examine the protection of workers from ergonomic hazards. SD-430.

Page D 718

Committee Meetings For Wednesday, July 18, 2001 (Cont'd.):

Committee on the Judiciary: @ 10:00 a.m. To hold hearings to examine reforming the Federal Bureau of Investigation management reform issues. SD-226.

Committee on the Judiciary: @ 2:30 p.m. Full Committee, to hold hearings on the nomination of *James W. Ziglar*, of Mississippi, to be *Commissioner of Immigration and Naturalization*, Department of Justice. SD-226.

Page D 718

HOUSE

Bills Introduced:

H.R. 2512. *A bill to authorize additional appropriations for the United States Customs Service for personnel, technology, and infrastructure to expedite the flow of legal commercial and passenger traffic along the Southwest land border, and for other purposes; to the Committee on Ways and Means.*

Hinojosa

Page H 4111

H.R. 2516. A bill to *enhance the Federal Government's leadership role in energy efficiency by requiring Federal agencies to acquire* central air conditioners and heat pumps that meet or exceed certain efficiency standards; to the Committee on Government Reform, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Barrett

Page H 4111

H.R. 2519. *A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.*

Chabot

Page H 4111

H.R. 2520. A bill to amend the Internal Revenue Code of 1986 to curb tax abuses by disallowing tax benefits claimed to arise from transactions without substantial economic substance, and for other purposes; to the Committee on Ways and Means.

Doggett

Page H 4111

H.R. 2522. *A bill to make improvements in the operation and administration of the Federal courts, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.*

Coble

Page H 4111

H.R. 2523. *A bill to eliminate certain inequities in the Civil Service Retirement System and the Federal Employees' Retirement System with respect to the computation of benefits for law enforcement officers, firefighters, air traffic controllers, nuclear materials couriers, members of the Supreme Court and Capitol police, and their survivors, and for other purposes; to the Committee on Government Reform.*

Cummings

Page H 4111

H.R. 2526. A bill to make permanent the moratorium enacted by the Internet Tax Freedom Act, and for other purposes; to the Committee on the Judiciary.

Goodlatte

Page H 4112

Bills Introduced (Cont'd.):

H.R. 2527. *A bill to provide grants for training of realtime court reporters and closed captioners to meet the requirements for closed captioning set forth in the Telecommunications Act of 1996; to the Committee on Education and the Workforce.*

Kind

Page H 4112

H.R. 2536. A bill to amend the Communications Act of 1934 to reduce restrictions on media ownership, and for other purposes; to the Committee on Energy and Commerce.

Stearns

Page H 4112

H.R. 2537. *A bill to provide for the appointment of an Assistant United States Attorney for each judicial district for the purpose of prosecuting firearms offenses; to the Committee on the Judiciary.*

Udall

Page H 4112

Report Filed:

Report was filed as follows:

H. Res. 196, providing for consideration of **H.R. 7**, to provide incentives for charitable contributions by individuals and businesses, to improve the effectiveness and efficiency of government program delivery to individuals and families in need, and to enhance the ability of low-income Americans to gain financial security by building assets (House Report 107-144).

Pages H 4111, D 715

H.J. Res. 36. Prohibiting the Desecration of the Flag of the United States:

The House passed H.J. Res. 36, proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States by a yea-and-nay vote of 298 yeas to 125 nays, Roll No. 232.

Pages H 4043-69, D 715

Rejected the Watt of North Carolina amendment in the nature of a substitute that sought to authorize the Congress, not inconsistent with the first amendment, to prohibit the physical desecration of the flag by a yea-and-nay vote of 100 yeas to 324 nays, Roll No. 231.

Pages H 4063-8, D 715

H. Res. 189, the rule that provided for consideration of the joint resolution was agreed to by voice vote.

Pages H 4035-6, D 715

H.R. 2500. Commerce, Justice, State, and the Judiciary Appropriations, 2002:

The House completed general debate and began considering amendments to H.R. 2500, making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2002. Consideration will resume on July 18.

Pages H 4071-H 4100, D 716

"... For Judiciary, \$63 million will begin the renovations at the U.S. Supreme Court, about half the amount needed to protect the life, safety and security of the millions of people who use that building. Also a cost-of-living increase to the attorneys who ensure the fairness of our criminal justice system by representing indigents in criminal cases...." (Wolf, Page H 4072)

H.R. 2500. Commerce, Justice, State, and the Judiciary Appropriations, 2002 (Cont'd.):

"...I am pleased that the subcommittee funded the Indian Programs that are included in the Indian Country Law enforcement initiative at the levels contained in the President's fiscal year 2002 budget request. I, however, hope that as this bill makes its way through the legislative process, that you will support funding increases for the following items:

- 1. Cops grant set aside for Indians.*
- 2. Tribal Courts.*

3. Indian alcohol and substance abuse programs.
4. Title V Grants that support tribal juvenile justice systems.
5. Grants to fund the construction of detention facilities in Indian Country.
6. Tribal criminal justice statistics collection.

Mr. Chairman, each of those programs are critical to the tribal justice systems. While national crime rates continue to drop, crime rates on Indian lands continue to rise. What is particularly disturbing is the violent nature of Indian country crime: violence against women, juvenile and gang crime, and child abuse remain serious problems..." (Kildee, Page H 4086)

Agreed To:

Cannon amendment that strikes reference limiting claims covered by the Radiation Exposure Compensation Act to those in effect on June 1, 2000;

Pages H 4092, D 716

Rejected:

Lucas amendment that sought to increase Community Oriented Policing Services (COPS) funding by \$11.7 million to combat methamphetamine production and trafficking and decrease International Broadcasting Operations funding accordingly (rejected by a recorded vote of 187 ayes to 227 noes, Roll No. 233);

Pages H 4091-2, H 4097-8, D 716

Hinchey amendment no. 2 printed in the Congressional Record of July 16 that sought to increase funding for the Economic Development Administration funding by \$73 million for development grants and trade adjustment assistance and decrease prison construction funding accordingly (rejected by a recorded vote of 172 ayes to 244 noes, Roll No. 234); and

Pages H 4092-4, H 4098-9, D 716

DeGette amendment that sought to strike Section 103 which prohibits Federal funding to pay for an abortion (rejected by a recorded vote of 169 ayes to 253 noes, Roll No. 235).

Pages H 4094-7, H 4099-H 4100, D 716

Brady amendment was offered but subsequently withdrawn that sought to increase funding to the Justice and State departments by \$5 million to bolster efforts to negotiate extradition treaties to close safe havens for criminals.

Page H 4087, D 716

H. Res. 192, the rule that provided for consideration of the bill was agreed to by voice vote.

Pages H 4069-70, D 716

Further Consideration of H.R. 2500, Commerce, Justice, State, and the Judiciary Appropriations:

Agreed that during further consideration of H.R. 2500, Commerce, Justice, State, and the Judiciary Appropriations, no further amendment to the bill may be offered except pro forma amendments offered by the chairman or ranking minority member of the Committee on Appropriations or their designees for the purpose of debate; and amendments printed in the Congressional Record of July 17, 2001, or any Record before that date. The Clerk shall be authorized to print in the Congressional Record of July 17, 2001 all amendments that are at the desk and not already printed.

Pages H4097, D 716

Committee Meetings:

Committee on Appropriations: Ordered reported the following appropriation bills for fiscal year 2002: VA, HUD and Independent Agencies; and the ***Treasury, Postal Service and General Government***. The Committee also approved revised Suballocations of Budget Allocations for fiscal year 2002.

Committee on Education and the Workforce: Subcommittee on Employer- Employee Relations held a hearing on **H. R. 2269, Retirement Security Advice Act of 2001**.

Page D 716

Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on *“Opportunities and Advancements in Stem Cell Research.”*

Committee on Government Reform: Subcommittee on Technology and Procurement Policy held a hearing entitled *“Toward Greater Public- Private Collaboration in Research and Development: How the Treatment of Intellectual Property Rights is Minimizing Innovation in the Federal Government.”*

Committee on Rules: Granted, by voice vote, a modified closed rule providing 1 hour of debate on **H.R. 7, *Community Solutions Act of 2001***. The rule waives all points of order against consideration of the bill. The rule provides that, in lieu of the amendments recommended by the Committee on Ways and Means and the Committee on the Judiciary, the amendment in the nature of a substitute printed in the Congressional Record and numbered 1 shall be considered as adopted.

Committee on Transportation and Infrastructure: *Subcommittee on Economic Development, Public Buildings and Emergency Management approved for full Committee action the following bill: H.R. 988, to designate the United States courthouse located at 40 Centre Street in New York, New York, as the “Thurgood Marshall United States Courthouse.”*

Page D 717

Committee Meetings For Wednesday, July 18, 2001:

Committee on the Judiciary, @ 2:00 p.m. Subcommittee on Commercial and Administrative Law, hearing on H.R. 1410, Internet Tax Moratorium and Equity Act. 2141 Rayburn.

Committee on Rules, @ 4:00 p.m. To consider the following: the *Conference Report to accompany H.R. 2216*, making supplemental appropriations for the fiscal year ending September 30, 2001. H-313 Capitol.

Committee on Transportation and Infrastructure, @ 11:00 a.m. *To mark up the following bill: H.R. 988, to designate the United States courthouse located at 40 Centre Street in New York, New York, as the “Thurgood Marshall United States Courthouse;” and to consider pending committee business.* 2167 Rayburn.

Page D 719

Remark:

Introduction Of Abusive Tax Shelter Shutdown Act. (H.R. 2520)

Doggett

Pages H 4023-8

See Page H 4024: TITLE I—CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE (SEC. 101)

“...Further, the Secretary can challenge a tax result by applying the so-called ‘economic substance doctrine.’ This doctrine has been applied by the courts to deny unwarranted and unintended tax benefits in transactions whose undertaking does not result in a meaningful change to the taxpayer’s economic position other than a purported reduction in federal income tax. Closely related doctrines also applied by the courts (sometimes interchangeable with the economic substance doctrine) include the so-called ‘sham transaction doctrine’ and the ‘business purpose doctrine.’ (See, for example, Knetsch v. United States, 364 U.S. 361

(1960) denying interest deductions on a 'sham transaction' whose only purpose was to create the deductions.)..."

Next SENATE MEETING: Wednesday, 9:30 a.m., July 18, 2001.

Next HOUSE MEETING: Wednesday, 10:00 a.m., July 18, 2001.

OLA: S. Schwarz (Smith), J. Homanich